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## 210.01 General

It is the goal of the Washington State Department of Transportation (WSDOT) that decisions be made in the best overall public interest and that other agencies and the public be involved early enough to ensure that the decisions that are made are responsive to the public's interests.

Public involvement is used to place issues before the public; to gather, and assimilate comments; and to inform the public of the final decisions, construction schedules, and project results. As part of the public involvement activities, hearings are held when major decisions are being made. Other, less formal methods are also used because they are the best way to elicit comments and communicate proposals.

Current laws and regulations provide general guidelines that allow considerable flexibility. The environmental policies and procedures (SEPA and NEPA) are intended to ensure that environmental information is available to public officials, agencies, and citizens and that public input is considered before decisions are made.

The role of local elected officials in the project development process is emphasized, and consistency with community planning goals and objectives is required.

## 210.02 References

USC Title 23 — Highways, Sec. 128 Public Hearings

USC Title 23 — Highways, Sec. 771.111 Early coordination, public involvement, and project development

RCW 47.50, Highway Access Management

RCW 47.52, Limited Access Facilities

*Design Manual* Chapter 220 for environmental references

*Improving the Effectiveness of Public Meetings and Hearings*, FHWA Guidebook

*Public Involvement Techniques for Transportation Decision-Making*, FHWA September 1996

## 210.03 Definitions

**hearing** An assembly to which the public is invited — to attend and to be heard.

**formal hearing** A hearing that is conducted by a moderator using a formal agenda, overseen by a hearing examiner, and recorded by a court reporter, as required by law.

**informal hearing** A hearing that is recorded by a court reporter, as required by law. An open format hearing is an informal hearing. The hearing examiner and formal agenda are optional.

**access hearing** A formal hearing that gives local public officials, owners of abutting property, and other interested citizens an opportunity to be heard concerning any plan that proposes the limitation of access to the highway system.

**administrative appeal hearing** A formal process whereby a property owner may appeal the department's implementation of access management legislation. The appeal is heard by an Administrative Law Judge who renders a decision. See 210.11 for the administrative appeal hearing procedures. They differ from those for the other, more public, hearings.

**combined hearing** A hearing that is held when there are public benefits to be gained by any combination of the environmental, corridor, design, and access hearings.

**corridor hearing** A formal or informal hearing that presents the corridor alternatives to the public for review and comment before a commitment is made to any one route or location.

**design hearing** A formal or informal hearing that presents the design alternatives to the public for review and comment before a commitment is made to any one alternative.

**environmental hearing** A formal or informal hearing that ensures that social, economic, and environmental impacts have been considered.

**court reporter** A person with a license to write and issue official accounts of judicial or legislative proceedings.

**findings and order** A document containing the findings and conclusions of a limited access hearing that is approved by the Assistant Secretary for the Environmental and Engineering Service Center.

**Hearing Coordinator** The Access and Hearings Specialist within the Olympia Service Center (OSC), Design Office, Access and Hearings Unit, who is assigned the responsibility for coordination of all functions relating to hearings.

**hearing examiner** An Administrative Law Judge (ALJ) from the Office of Administrative Hearings, or a WSDOT designee, appointed to moderate a hearing.

**NHS projects** Projects on the National Highway System for which FHWA has delegated approval authority for design, contract administration, and construction to WSDOT. (See Chapter 330.)

**opportunity for a hearing** An advertised offer to hold a hearing if so requested.

**resumé** An official notification of action taken by WSDOT following adoption of a findings and order.

## 210.04 Public Involvement

Developing an effective public involvement program is a strategic effort that involves selecting techniques that will meet the unique needs of a given transportation plan, program, or project. An effective public involvement program:

- Informs the public of the need or proposed action.
- Informs the public about the process that will be used to make decisions.
- Ensures that the public has ready access to relevant and understandable information.
- Identifies and resolves issues early in the process.
- Gains public support.
- Assists the project development process.

Public involvement begins during the system planning phase when the public is given opportunities to help solve short and long term transportation problems.

The public involvement effort continues into the project definition phase when a project is proposed to fulfill an identified need. When the study area for a project is identified, the region frequently notifies the public that the department is initiating a project and invites them to participate in a project definition or environmental evaluation meeting.

The region develops a public involvement plan that identifies all the methods proposed for the project. Methods are selected to ensure that public opinion is considered throughout the planning, environmental, location, and design phases of the project. Follow-up activities sometimes continue through construction, and even after completion, to provide ongoing public outreach or notifications.

For simple projects, the region develops a public involvement plan for their own use and guidance. To inform the public, communicate the decision-making process, identify the issues, and possibly resolve concerns, the region communicates with

the affected community through newspaper articles, fliers, community group presentations, open house meetings, or other methods. Public involvement on minor projects is not intended to be an open forum on the proposed design; however, public comments received during project development are evaluated and, if appropriate, included in the project.

It may become necessary to revise the public involvement plan as the project evolves, the community changes, or new issues arise.

### **(1) Public Involvement Plan**

The regions develop the public involvement plans for WSDOT projects. For projects requiring an environmental impact statement (EIS), a public involvement plan and OSC approval are required as part of the preparation of the Study Plan. (See Chapter 220.) For all other projects, the region may consult the Access and Hearings Unit for assistance or concurrence.

The public involvement plan includes:

- List of proposed activities.
- Time schedule to do each task keyed to the environmental process schedule, if applicable.
- Methods to be used in considering comments in the decision-making process, including follow-up procedures.
- Personnel, time, and funds needed to carry out the plan.
- Identification of the project stakeholders as the *public* to be involved.

The *public* to be involved (affected directly or indirectly) might include any or all of the following:

- Staff and elected officials of local governments
- Other state and federal agencies and officials
- Indian tribes
- Adjacent property owners and tenants
- Adjacent billboard owners and clients

- Community groups; clubs, civic groups, churches
- Special interest groups
- Environmental Justice stakeholders (low income and minority groups)
- Service providers; emergency, utility
- Others expressing interest
- Others known to be affected
- The general public

The department recognizes the role of local, state, and federal staff and elected officials as active sponsors of proposed projects who might effectively assist in developing and implementing the public involvement plan. Early and continued contact with these resources is a key to the success of the project.

### **(2) Public Involvement Methods**

Effective public involvement is flexible, innovative, multifaceted, and ongoing. There are many methods available to gain public participation. Any of the following methods might be appropriate to a project.

- Formal hearings (210.04(2)(a))
- Informal hearings (open format hearings) (210.04(2)(b))
- Public meetings and open house meetings (210.04(2)(c))
- Prehearing presentations
- Drop-in information centers or booths
- Advisory committee meetings
- Design workshops
- Meetings with public officials
- Individual (one-on-one) meetings
- Meetings with special interest groups
- Presentations at local group meetings
- Surveys and questionnaires/paper or electronic mail
- Hot lines
- Follow-up procedures (210.04(2)(d))

There are many communication tools available for use when announcing and holding public involvement events. See the following for lists of ideas.

- Notification techniques (210.04(2)(e))
- Handouts 210.04(2)(f)
- Graphics and Audio-Visual Aids 210.04(2)(g)

Agency representatives are conveying the department's image. They should be conscious of their roles, be well informed and confident, and communicate skillfully. When the event is well planned and the conductor is sensitive to the needs of the audience and objective about the needs of the project, meetings and hearings are usually productive efforts. See the FHWA publication *Public Involvement Techniques for Transportation Decision-Making*.

(a) **Formal Hearings.** The following are required of all formal hearings.

- Prehearing packet(210.05(5)(a))
- A hearing notice with a fixed time and date (210.05(2))
- Fixed agenda
- Hearing moderator (may be the hearing examiner)
- Hearing examiner
- Comment period
- Summary (210.05(6))

In addition to the oral comment period, people can write opinions on comment forms at the time of, or after, the hearing and submit them before the announced deadline.

See 210.06, 7, 8, and 9 for specifics related to the various types of hearings.

(b) **Informal Hearings (Open Format Hearings).**

An informal hearing must have the characteristics of a formal hearing listed in (a) above except for the fixed agenda. These events are usually scheduled for substantial portions of an afternoon or evening so people can drop in at their

convenience and fully participate. People are directed to attend a presentation, visit the exhibits, and then submit their comments.

The following items are features of an open format hearing, which is the most common format for an informal hearing.

- In areas where people work in shifts, open format hearings can be scheduled to overlap the shift changes.
- Brief presentations about the project and hearing process, at preset times, are advertised in the hearing notice. They can be live, videotape, or computerized.
- Agency or technical staff are present to answer questions and provide details of the project.
- Information is presented buffet style and participants shop for information.
- Graphics, maps, photos, models, videos, and related documents are frequently used.
- People get information informally from exhibits, presentations, and staff.
- People have a chance to clarify their comments by reviewing materials and asking questions before commenting.
- People can comment formally before a court reporter, or they can write opinions on comment forms and submit them before the announced deadline.
- People are encouraged to give opinions, comments, and preferences to the examiner in the presence of a court reporter.

(c) **Public Meetings and Open House**

**Meetings.** Meetings are less formal than hearings. Public meetings range from large informational and workshop meetings to small groups and one-on-one meetings with individuals. The region evaluates what is desired from a meeting, and how the input will be tracked, and then plans accordingly.

- Open house meetings are very effective for introducing a project to the public and stimulating the exchange of ideas.

- Small meetings are useful for gaining information from special interest groups, neighborhood groups, and advisory committees.
- Workshop formats, where large groups are organized into small discussion groups, serve to maximize participation of all attendees while discouraging domination by a few individuals.

(d) **Follow-Up Procedures.** Effective public involvement is an on-going two-way exchange and it may be necessary to provide follow-up information several times during a large project to maintain a continuing exchange of information with the community.

At significant stages, the region responds to input with general information about the project. Follow-up information conveys, as accurately as possible, how public input was used to develop the project. Follow-up for larger projects might include newsletters, reports, individual contacts, or other activities related to the public's contribution to the project.

Follow-up measures can continue through construction and after project completion. The construction schedule is useful information and project accomplishments (such as noise abatement) are of interest.

Follow-up for smaller projects or for specific comments might simply be timely responses to individual requests.

(e) **Notification Techniques.** For hearings, see 210.05 for requirements regarding advertising for hearing interest and hearing advertisements. For other public involvement methods, develop notification techniques to attract a cross-section of the public. Provide special notices to those directly affected. Design the notifications to catch the public's attention and encourage people to attend or become involved. Consider the following techniques:

- Handouts
- News Releases — TV or newspapers
- Display ads in newspapers

- Web sites
- Electronic mail
- Faxboards
- Fact sheets
- Billboards
- Project notebooks at public places
- Project display boards at public places
- Fliers
- Newsletters
- Posters
- Local bulletin board announcements
- Personal contacts
- Radio announcements — AM, FM, CB
- On-site tours.
- Project office located close to the project

(f) **Handouts.** A well designed and informative handout can serve as an ongoing link between the department and the public.

Handouts have no set format. Make them as clear, relevant, up-to-date, easily understood, and self-explanatory as possible. Use handouts in foreign languages when appropriate. The following are handout possibilities:

- Special project newspapers
- Pamphlets
- Brochures
- Booklets (large, complicated projects)
- Charts
- Tables
- Graphs
- Project maps (aerial photographs or line drawings)
- Project development schedules
- Reports
- Right-of-way brochures (or other general information)

- Questionnaires
- Surveys

(g) **Graphics and Audio-Visual Aids.** The department normally uses slide shows or graphic exhibits to present project information. These presentations are informal and responsive to questions and concerns. Consider the following presentation techniques:

- Slide, slide-tape presentation
- Videotape
- Models
- Maps — large, simple
- Artistic renderings
- Photomontage
- Aerial photographs
- Computer visualizations

## 210.05 Hearings

Environmental documents address the social, economic, and environmental effects as described in Chapter 220. The project environmental documentation is the first step in the hearing procedures sequence. Each step of the hearing procedures is dovetailed into the environmental process and is important in achieving the appropriate project documentation. Corridor and design hearings are not normally required for Environmental Assessment, SEPA Checklist, and categorically excluded projects, but the opportunity for an environmental hearing might be required. When environmental hearings are not required, an informational meeting may serve as a useful forum for public involvement in the environmental process.

For all projects, the region reviews the requirements for a hearing or notice of opportunity for a hearing during the early stages of project development and before completion of the draft environmental documents.

If a hearing or notice of opportunity for a hearing is required, see Figure 210-1 for a summary of the event and timing requirements.

### (1) **Hearing Requirements**

A hearing or notice of opportunity for a hearing is required by federal and state law (USC Title 23 §771.111 and RCW 47.52) and by WSDOT policy if one or more of the following occurs. (When in doubt, consult the Hearing Coordinator.)

#### (a) **Corridor Hearing**

- The proposed route is on a new location.
- There will be substantial social, economic, or environmental impacts.
- There will be a significant change in the layout or function of connecting roads or streets.

#### (b) **Design Hearing**

- Acquisition of a significant amount of right of way will result in relocation of individuals, groups, or institutions.
- There will be substantial social, economic, or environmental impacts.
- There will be a significant change in the layout or function of connecting roads or streets or of the facility being improved.

#### (c) **Access Hearing**

- Access control is established or revised

#### (d) **Environmental Hearing**

- An EIS is required for the project or a hearing is requested for an EA.
- There will be substantial social, economic, or environmental impacts.
- There will be a significant adverse impact upon abutting real property.
- There is significant public interest or controversy regarding the project.
- Other agencies (Coast Guard or Corps of Engineers, for example) have hearing requirements that could be consolidated into one hearing process.

### **(c) Follow-up Hearings**

A new hearing or the opportunity for a hearing is required for any previously held hearing when any one of the following occurs. (See USC 23, §771.111.)

- Corridor or design approvals have not been requested within three years after the date the last hearing was held or the opportunity for a hearing was afforded.
- An unusually long time elapsed since the last hearing or opportunity for a hearing.
- A substantial change occurs in the area affected by the proposal (due to unanticipated development, for example).
- A substantial change occurs in a proposal for which an opportunity for a hearing was previously advertised or a hearing was held.
- A significant social, economic, or environmental effect is identified that was not considered at earlier hearings.

### **(2) Hearing Notice**

The OSC Access and Hearings Unit provides sample hearing notices to the regions upon request. These include items that are required by state and federal statutes. Some important elements of a notice are:

- To promote public understanding, the inclusion of a map or drawing is encouraged.
- For a notice of an opportunity for a hearing, include the procedures for requesting a hearing and the deadline, and note the existence of the relocation assistance program for persons or businesses displaced by the project.
- For a corridor, design, or combined corridor-design hearing or a notice of an opportunity for a hearing, announce the availability of the environmental document and where it may be obtained and/or reviewed.
- If there is involvement in wetlands, flood plains, prime and unique farmlands, Section 4(f) lands, or endangered species, include this information in the notice.

- Include information on any associated prehearing presentation (210.05(5)(d)).

Hearing notices and notices of opportunity for a hearing are advertised as described in 210.05(3) and Chapter 220. Hearing notices are also circulated as described in 210.05(5)(b)

### **(3) Advertise a Hearing or the Opportunity for a Hearing**

To advertise a legal notice of a hearing or a notice of an opportunity to request a hearing, use the following procedure:

- The region transmits the proposed notice, and a list of the newspapers in which the notice will appear, to the OSC Hearing Coordinator for concurrence prior to advertisement.
- Upon receiving concurrence, the region advertises the notice.
- Advertisement must be published in a newspaper having general circulation in the vicinity of the proposed project or the impacted population and in any newspaper having a substantial circulation in the area concerned, such as foreign language newspapers and local newspapers.
- The advertisement may be in the legal notices section or, preferably, as a paid advertisement in a prominent location.
- Additional means (such as display ads, direct mail, fliers, posters, or telephoning) may also be used to better reach interested or affected groups or individuals.
- A copy of the published hearing notice is sent to the Hearing Coordinator at the time of the publication.
- For access and environmental hearings, the notice must be published at least 15 days prior to the hearing. The timing of additional publications is optional.
- For corridor and design hearings, the first-notice publication must occur at least 30 days before the date of the hearing. The second publication must be 5 to 12 days before the date of the hearing.

- In no case shall a first notice for a corridor or design hearing be advertised prior to public availability of the draft environmental document.
- For a notice of opportunity for a hearing, the notice must be published once each week for two weeks. The deadline for requesting a hearing must be at least 21 days after the first date of publication and at least 14 days after the second date of publication.

#### **(4) No Hearing Interest**

When the region is not aware of specific hearing interest, the region can satisfy project hearing requirements by advertising a notice of opportunity for a hearing.

If no requests are received for a corridor or design hearing, the region transmits a package (which contains the notice of opportunity for a hearing, the Affidavit of Publication of the hearing notice, and a letter stating that there were no requests for a hearing) to the OSC Access and Hearings Unit.

When a notice of opportunity for a hearing is used to fulfill the requirements for a limited access hearing and there are no requests for a hearing, the region must secure waivers from every abutting property owner and affected local agency.

- The region obtains sample waiver forms from the OSC Access and Hearings Unit.
- The Project Engineer must contact every affected property owner of record (not tenant) and local agency to explain the plan and project to them. This explanation must include access features, right of way take (if any), and the right to a hearing.
- The region transmits the original signed waivers to OSC Access and Hearings Unit for processing.
- The Access and Hearings Unit prepares a package for review and approval by the State Design Engineer. This package consists of the signed waivers and Affidavit of Publication of the access hearing notice of

opportunity for a hearing along with a recommendation for approval of the right of way plan.

#### **(5) Hearing Preparation**

The Deputy State Design Engineer sets the hearing date. Final arrangements for the hearing date can be handled by telephone between the Hearing Coordinator and the region.

The region proposes a hearing date based on the following considerations:

- Convenient for community participation. Contact local community and government representatives to avoid conflict with local activities.
- When Commission members can attend if they so desire. Check with the Hearing Coordinator to avoid conflict with other commission business if possible.
- For corridor and design hearings, at least 30 days after circulation of the DEIS or the published notice of availability of any other environmental document.
- In most cases, more than 45 days after submittal of the prehearing packet.

The region makes other arrangements as follows:

- The location of the hearing hall is to be accessible from public transportation if possible, convenient for community participation, and accessible to the disabled.
- Arranges for a court reporter.
- Arranges for a the Hearing Coordinator to provide a hearing examiner for all access hearings and for other hearings if desired.
- Develops a hearing agenda for all access hearings and for other hearings if desired.
- If requested in response to the hearing notice, interpreters for the deaf, audio equipment for the hearing impaired, language interpreters, and Braille or taped information for people with visual impairments are required.



(a) **Prehearing Packet.** When it is determined that a hearing must be held, the region prepares a prehearing packet.

Include the following in the prehearing packet:

- Vicinity map
- Capsule project description
- Brief project history
- Public support or opposition to the project
- Plans for corridor and design alternatives with descriptions
- Hearing plans (access hearing only)
- News release
- Hearing notice tailored to the needs of the project. (For access hearing, indicate number of notices, plans, and Notices of Appearance needed for mailing.) See 210.05(2).
- List of legislators
- List of government agencies
- List of property owners (access hearing only)
- List of newspapers
- Hearing agenda if applicable
- Hearing arrangements, date, time, place
- Hearing format: formal or open format

Three copies of the prehearing packet are furnished to the OSC Access and Hearings Unit at least 45 days before the proposed hearing date. Concurrence with the prehearing packet takes about two weeks after receipt of the information. This assumes that all necessary information has been submitted to the Access and Hearings Unit.

(b) **Circulate Hearing Notice.** The Hearing Coordinator sends a copy of the notice of hearing to the Commission, the Attorney General's Office, the Public Affairs Office, and the FHWA (if applicable).

The region circulates copies of the hearing notice as follows:

- Send a copy of the hearing notice and a capsule description to the appropriate legislators and local officials about one week before the first publication of a hearing notice.
- Include in the cover letter to the news media a statement such as: "This material may have been released by a local legislator. If not, we will appreciate any coverage you care to give the project at any time prior to the hearing."
- Distribute the news release to all reasonable news media, as well as the newspapers that will carry the formal advertisement of the hearing notice, about 3 days before the first publication of a hearing notice.
- Advertise the hearing notice in the appropriate papers as described in 210.05(3) within a week of the mailing to the legislators.

(c) **Presentation of Material for Inspection and Copying.** The information outlined in the hearing notice, other engineering studies, and information that will be presented at the hearing is made available for inspection and copying throughout the period between the first advertisement and approval of the hearing summary or findings and order. The information need not be in final form, but must include every item that is included in the hearing presentation. The environmental document must also be available for public review.

The information presented for inspection and copying is made available in the general locality of the project. The region reviews the variables (locations of the regional office, the project office, the project site, and the interested individuals, and the probability of requests for review) and selects a mutually convenient site for the presentation of the information. The region keeps a record of who came in, when, and what data they reviewed and copied.

(d) **Hearing Briefing.** On controversial projects, the Hearing Coordinator arranges for a briefing (held before the hearing) for those interested in the project. Attendants include appropriate OSC, regional, and FHWA personnel, with special notice to the Secretary of Transportation. Regional personnel present the briefing.

(e) **Prehearing Presentations.** The region is encouraged to hold an informal presentation to the public for display and discussion of the project and plans. Holding this presentation on projects where local feeling runs high promotes rapport, brings out community reaction to the project, and identifies trouble spots prior to the hearing.

A prehearing presentation is informal, with ample opportunity for exchange of information between the department and the public. Prehearing presentations can be open house meetings, drop-in centers, workshops, or other formats that promote public participation.

The prehearing presentation is usually held approximately one week before the hearing for the more controversial projects. Other dates may be used depending on the desires of the region and the nature of the project.

Include notice of the date, time, and place in the hearing notice and ensure that the hearing notices are mailed in time to give adequate notice of the prehearing presentation.

(f) **The Hearing.** The hearing is moderated by the Regional Administrator or his designee. Normally, a hearing examiner is used when significant controversy or significant public involvement is anticipated. A hearing examiner is required for access hearings.

A word-for-word transcript of the proceedings is made by a court reporter.

Hearings are generally more informative and gain more public participation when an informal format is used so the public's views and opinions are openly sought in a casual and personal way. The open format hearing may be used for all hearings except access hearings. At least one court reporter is required to take testimony on a one-on-one basis. Use display tables and enough knowledgeable staff to answer specific questions about the project.

It is the responsibility of the hearing moderator and other department representatives to be responsive to all reasonable and appropriate questions, if possible. If a question or proposal

is presented at the access hearing, which necessitates an answer at a later date, the region reserves an exhibit to respond to the comment. The hearing moderator must not allow any person to be harassed or subjected to unreasonable cross-examination.

(g) **Hearing Agenda Items.** For all access hearings and for other hearings, as desired, the region prepares a hearing agenda to ensure that all significant items are included. A hearing agenda includes:

1. Opening Statement:

- Highway and project name
- Purpose of hearing
- Introduction of elected officials
- Federal/State/County/City relationship
- Statutory requirements being fulfilled by the hearing
- Status of the project with regard to NEPA/SEPA documents
- Description of information available for inspection and copying
- For an environmental, corridor, design, or corridor-design hearing, statement that written statements and other exhibits can be submitted during the open record period following the hearing.
- Statement that all who want to receive written notification of the department's action as a result of the hearing may add their names to the interest list or file a Notice of Appearance for access hearings.
- Description of how the hearing will be conducted

2. Project History. Present a brief project history, including need for the project, public involvement program, hearing opportunities afforded, and hearings held.

3. **Presentation of Plans.** Develop alternatives studied to comparable levels of detail and present them equally. Include the no-action alternative. Refer to any supporting studies that are publicly available.

Advise if one corridor or design is preferred by the department for more detailed development. When a preferred alternative exists, stress that it is subject to revision and re-evaluation both during and after the hearing, based on public comments, additional studies, and other information that may become available.

4. **Social, Economic, and Environmental Discussion.** Discuss all social, economic, and environmental effects or summarize the major impacts and refer to the environmental document.

5. **Statements, Plans, or Counter-Proposals from the Public.** Accept public views or statements regarding the plans presented, the alternatives to those plans, and the social, economic, and environmental effects of any plan.

6. **Relocation Assistance Program.** Explain the relocation assistance program and relocation assistance payments available. The Relocation Assistance brochure must be available for free distribution at all hearings. Right of way and relocation personnel should be available.

If the project does not require any relocations, the relocation assistance discussion may be omitted. Make a simple statement to the effect that relocation assistance is provided when needed but that no relocation is required by the project under discussion. The brochure and personnel should still be available to the public at the hearing.

7. **Acquisition.** Discuss right of way acquisition, estimated cost, and construction schedules. Discuss current schedules of critical activities that may involve or affect the public.

8. **Closing.** Summarize the hearing and what will follow.

9. **Adjournment.** Adjourn a hearing with sincere gratitude for the public's valuable participation.

## **(6) Hearing Summary Contents**

The hearing summary includes the following elements:

1. Transcript.
2. Copy of the Affidavit of Publication of the hearing notice.
3. Hearing material:
  - Copies of the letters received before and after the hearing
  - Copies or photographs of, or references to, every exhibit used in the hearing.
4. Summary and analysis of all oral and written comments. Include consideration of the social, economic, and environmental effect of these comments.

## **210.06 Environmental Hearing**

Projects requiring an EIS must use an evaluation process (called *scoping* in the NEPA and SEPA requirements) to identify the significant issues and alternatives to be studied in the DEIS and must follow the public involvement plan included in the Study Plan for the project. After the project has been thoroughly discussed within the community through the environmental evaluation process and informal public involvement methods, a hearing is held to present and gather testimony. The hearing is timed to fall within the comment period of the draft EIS for the project.

Responses to comments on the DEIS must be addressed in the FEIS. See Chapter 220 for the approval process.

The environmental hearing summary includes the items outlined in 210.05(6) above.

## **210.07 Corridor Hearing**

When a Corridor hearing is held, the region must provide enough design detail on the proposed alignment(s) within the corridor(s) so that an informed presentation can be made at the hearing. Justification must also be presented to abandon an existing corridor.

After the hearing, the region reviews the hearing transcript, responds to all questions or proposals submitted at or subsequent to the hearing, compiles a hearing summary, and transmits three copies (four copies for Interstate projects) to the Access and Hearings Unit. When appropriate, the hearing summary may be included in the final EIS.

The corridor hearing summary includes the items outlined in 210.05(6) above.

The Access and Hearings Unit prepares a package that contains the corridor summary and a formal document that identifies and describes the project, and forwards it to the Assistant Secretary for Environmental and Engineering Service Center for adoption.

Federal approval of a corridor on existing alignment is not required unless a substantial social, economic, or environmental impact is involved or unless the project substantially changes the layout or function of connecting roads or streets.

Submit the complete corridor hearing summary to the Access and Hearings Unit within approximately two months following the hearing if it is not part of an EIS.

## **210.08 Design Hearing**

When a design hearing is held for an improvement on existing alignment, and no other corridors are being considered, sufficient data must be presented to clearly document the decision to retain the existing corridor.

### **(1) Design Hearing Summary**

The design hearing summary includes the items outlined in 210.05(6) above.

Submit the complete hearing summary to the Access and Hearings Unit within approximately two months following the hearing.

If new studies or additional data are required subsequent to the hearing, the region compiles the data in coordination with the OSC Design Office.

(a) **NHS Projects.** After the hearing, the region reviews the hearing transcript, responds to all questions or proposals submitted at or subsequent

to the hearing, compiles a hearing summary, and transmits three copies (four copies for Interstate projects) to the Access and Hearings Unit. When appropriate, the design hearing summary may be included in the final environmental document. The Access and Hearings Unit prepares a formal document that identifies and describes the project and submits it to the State Design Engineer for approval. One approved copy is returned to the region. The Hearing Coordinator notifies the region that adoption has occurred.

(b) **Interstate Projects.** Following the design hearing summary approval, the Deputy State Design Engineer submits the approved design hearing summary to FHWA for approval. If possible, this submittal is timed to coincide with the submittal of the Design Decision Summary to the FHWA.

### **(2) Public Notification of Action Taken**

The region prepares a formal response to the individuals who had questions not answered at the hearing. The region keeps the public advised as to the eventual result of the hearing process (project adoption, revision to the plan, or project cancellation, for example). A region newsletter sent to those on the interest list is an effective method of notification.

## **210.09 Access Hearing**

Access hearings are required by law (RCW 47.52) whenever limited access is established or revised on new or existing highways. Decisions concerning access hearings are made on a project by project basis by the State Design Engineer based on information that includes the recommendations submitted by the region. (See Chapters 1410, 1420, 1430, and 1435.) Access hearing procedures generally follow the procedures identified in 210.05.

Prior to the access hearing as per RCW 47.52.131, conferences with the local jurisdictions shall be held on the merits of the access report and the plans.

The following supplemental information applies only to access hearings and procedures for approval of the Findings and Order.

### **(1) Hearing Examiner**

The OSC Access and Hearings Unit hires an Administrative Law Judge from the Office of Administrative Hearings to conduct the access hearing.

### **(2) Order of Hearing**

The Order of Hearing officially establishes the hearing date. The Hearing Coordinator calendars the Order of Hearing on the same calendar as the access hearing plan. The Hearing Coordinator then notifies the region, the Attorney General's Office, and the hearing examiner of the official hearing date.

### **(3) Access Hearing Information to Abutters**

The region prepares an information packet for mailing that must be mailed at least 15 days before the hearing (concurrent with advertisement of the hearing notice). If some of the access hearing packets are returned as undeliverable, the region must make every effort to locate the addressees.

The access hearing packet consists of:

- The Access Hearing Plan
- The Access Hearing Notice
- The Notice of Appearance

The region sends the access hearing packet to the following:

- The county and/or city
- The owners of property listed on the county tax rolls as abutting the section of highway, road, or street being considered at the hearing as a limited access facility.
- Local public officials and agencies who have requested a notice of hearing or who, by the nature of their function, interest, or responsibility, are interested in or affected by the proposal
- Every agency, organization, official, or individual on the interest list

And, if applicable, to the following:

- State resource, recreation, and planning agencies
- Tribal governments
- Appropriate representatives of the Department of Interior and the Department of Housing and Urban Development
- Other federal agencies
- Public advisory groups

The region prepares an Affidavit of Service by Mailing. This affidavit states that the access hearing packet was mailed at least 15 days prior to the hearing and that it will be entered into the record at the hearing.

### **(4) Access Hearing Plan**

The region prepares an Access Hearing Plan to be used as an exhibit at the formal hearing and forwards it to the OSC Plans Engineer for review and approval about 45 days before the hearing. This can be a Phase 2 or Phase 2A plan. (See Chapter 1410.) The OSC Plans Engineer puts the Access Hearing Plan on the Deputy State Design Engineer's calendar for approval.

### **(5) Access Hearing Plan Revisions**

The Access Hearing Plan cannot be revised after the Deputy State Design Engineer approves the plan without rescheduling the hearing. If significant revisions to the plan become necessary during the period between approval and the hearing, they can be made and must be entered into the record as a revised (red and green) plan at the hearing.

### **(6) Access Hearing Notice**

The hearing notice must be published at least 15 calendar days before the hearing. This is a legal requirement and the hearing must be rescheduled if the advertising deadline is not met. Publication and notice requirements are the same as those required in 210.05 except that the statutory abutter mailing must be mailed after notification of the appropriate legislators.

### **(7) Notice of Appearance**

The Hearing Coordinator transmits the Notice of Appearance to the region. Anyone wanting to receive a copy of the Findings and Order and the adopted Limited Access Plan must complete a Notice of Appearance form and return it to the department either at the hearing or by mail.

### **(8) Reproduction of Plans**

The Hearing Coordinator submits the hearing plans for reproduction at least 24 days prior to the hearing. The reproduced plans are sent to the region, at least 17 days before the hearing, for mailing to the abutters at least 15 days before the hearing. (See 210.09(3) above.)

### **(9) Access Hearing Exhibits**

The region retains the access hearing exhibits until preparation of the draft Findings and Order is complete. Then the region submits all the original hearing exhibits, and three copies, to the Access and Hearings Unit as part of the Findings and Order package (210.09(11)). Any exhibits submitted directly to OSC are sent to the region for inclusion with the region's submittal.

### **(10) Access Hearing Transcript**

The court reporter furnishes the original access hearing transcript to the region. The region forwards the transcript to the hearing examiner, or presiding authority, for signature certifying that the transcript is complete. The signed original is returned to the region for inclusion in the Findings and Order package.

### **(11) Findings and Order**

The Findings and Order is based entirely on the evidence in the hearing record. The region reviews a copy of the transcript and prepares a Findings and Order package. The package is sent to the Access and Hearings Unit.

A Findings and Order package contains:

- The draft Findings and Order
- Draft responses to comments (reserved exhibits)

- A draft Findings and Order Plan (as modified from the hearing plan)
- All access hearing exhibits (originals and 3 copies)
- The access hearing transcript (original and 3 copies)
- The Notice of Appearance forms
- A number indicating how many copies of the final Findings and Order Plan and text that the region will need for the mailing.

### **(12) Adoption of Findings and Order**

The Assistant Secretary for Environmental and Engineering Service Center adopts the Findings and Order, or refers it to the Commission for adoption, based on the evidence introduced at the hearing and on any supplemental exhibits.

Following adoption of the Findings and Order, the OSC Plans Section makes the necessary revisions to the Access Hearing Plan, which then becomes the Findings and Order Plan.

The Access and Hearings Unit arranges for reproduction of the Findings and Order Plan and the Findings and Order text and transmits them to the region.

The region mails a copy of the Findings and Order Plan and the Findings and Order text to all parties filing a Notice of Appearance and to all local governmental officials. Subsequent to this mailing, the region prepares an Affidavit of Service by Mailing and transmits it to the Access and Hearings Unit.

At the time of mailing, but before publication of the resumé, the region notifies the appropriate legislators of the department's action.

### **(13) Resumé**

The Access and Hearings Unit provides the resumé to the region. The region must publish the resumé once each week for two weeks not to begin until at least 10 days after the mailing of the Findings and Order.

## **(14) Final Establishment of Access Control**

When the Findings and Order is adopted, the Findings and Order Plan becomes a Phase 4 plan. (See Chapter 1410.) The establishment of access control becomes final 30 days from the date the Findings and Order is mailed by the region as documented by the Affidavit of Service by Mailing.

An appeal from the county or city must be in the form of a written disapproval, and request for a hearing before a board of review, submitted to the Secretary of Transportation.

An appeal from abutting property owners must be filed in the Superior Court of the state of Washington, in the county where the limited access facility is to be located, and shall affect only those specific ownerships. The plan is final for all other ownerships.

### **210.10 Combined Hearings**

When deciding whether to combine hearings, consider:

- Whether there is controversy.
- Whether alternative corridors are proposed.
- The nature of the environmental concerns.
- The benefits to the public of a combined hearing.

A combined hearing often alleviates the need to schedule separate hearings close together to cover the same material. A combined EIS-corridor-design hearing is desirable only when the timing for circulation of the draft environmental document is simultaneous with the timing for corridor and design hearings and all alternative designs are available for every alternative corridor.

### **210.11 Administrative Appeal Hearing**

When implementing access management statutes, the region is required to use the public involvement process to communicate the principles and standards of access management to the abutting property owners, business owners, and emergency services providers that might access the affected properties.

The department, as applicable, applies the Highway Access Management statutes to control access to the state highway system in order to avoid congestion and functional deterioration of the system. (See Chapters 1420 and 1430.)

After the public involvement process, if a decision has been made to restrict or delete access to a specific property, the property owner may appeal the decision by requesting a hearing.

### **(1) Hearing Procedure**

An administrative appeal hearing does not follow the hearing procedures described earlier in this chapter. The procedure is as follows:

- The department notifies the property owner, in writing, that an access management action has been taken. The letter explains the appeal process.
- The property owner may write a letter to the department requesting an administrative appeal hearing.
- OSC hires an Administrative Law Judge and sets the hearing date, time, and place.
- The department notifies the property owner of the date, time, and place (in writing).
- Testimony is given.
- The ALJ renders a decision.

### **(2) Further appeals.**

- The property owner may appeal the ALJ's decision by writing the State Design Engineer.
- The State Design Engineer reviews the appeal and renders a decision (in writing, to the property owner).
- The property owner may appeal the State Design Engineer's decision to the Superior Court of the state of Washington.

### **210.12 Documentation**

All documents generated by hearings are retained in Archives by the Office of the Secretary of State.

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<b>Min. From Hearing</b>	<b>Sequence for a Hearing</b>		
	Determine need for a hearing or an opportunity for a hearing 210.05(1)		
	Develop hearing notice 210.05(2) + exhibits, develop Access Hearing Plan 210.09(4)		
45 days	Send prehearing packet 210.05(5)(a), send Access Hearing Plan 210.09(4)		
	Calendar Order of Hearing & Access Hearing Plan for access hearings 210.09(2)		
30 days	Draft EIS becomes available and its comment period begins for corridor and design hearings		
	Send notice to legislators and local officials within a week of first ad 210.05(5)(b)		
	Send letter with news release to media about 3 days before ad 210.05(5)(b)		
<b>For Access Hearings</b>		<b>For Corridor, Design, and Environmental Hearings</b>	
24 days	Reproduction of plans 210.09(8)	30 days 15 days	Advertise a hearing * 210.05(3) Environmental hearing
15 days	Mail information packet 210.09(3) and advertise a hearing * 210.09(6)	5-12 days	Presentation of material to copy, hearing briefing, prehearing presentations 210.05(5)(c) - (e)
	Confer with local jurisdictions 210.09		Second ad 210.05(3) for corridor and design hearings
	Hearing 210.05(5)(f)		Hearing 210.05(5)(f)
	Access Hearing Transcript 210.09(10)		Address comments
	Final Access Hearing Plan 210.09(11)		Summary 210.05(6) within two months of the hearing
	Findings and Order and Resumé 210.09(11) - (13)		

\*If the advertisement is for the opportunity for a hearing, the deadline for requests must be at least 21 days after the first ad. If there are no requests, see 210.05(4).

**Sequence for a Hearing**  
*Figure 210-1*